

REMARKS

Applicants respectfully requests entry of the remarks submitted herein. Claims 33-37 and 40-51 are currently pending. Reconsideration of the pending application is respectfully requested.

The Double Patenting Rejections

Claims 33-37 and 40-51 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-20, 44, 51, and 58 of U.S. Patent No. 6,307,128.

The Examiner indicated that the arguments submitted in the November 29, 2004 Response to Office Action regarding restriction of the claims in the parent application and the filing of this application as a Divisional application were not persuasive. The Examiner asserted that the pending claims in the above-indicated application are made obvious by the claims in the '128 patent.

Applicants submit herewith a Terminal Disclaimer by Assignee. The enclosed Terminal Disclaimer disclaims the terminal portion of the term of the entire patent to be granted from this application. The enclosed Terminal Disclaimer complies with 37 CFR §1.321. In view of the enclosed Terminal Disclaimer, Applicants respectfully request that the rejection of claims 33-37 and 40-51 under the judicially created doctrine of obviousness-type double patenting be withdrawn.

CONCLUSION

Enclosed is a \$1,150 check (\$130 for the Terminal Disclaimer fees and \$1020 for the Petition for Extension of Time fee). Please apply any other charges or credits to Deposit Account No. 06-1050.

Date:

August 15, 2005

Fish & Richardson P.C., P.A.
60 South Sixth Street, Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696
60281507.doc

Respectfully submitted,

M. Angela Parsons
M. Angela Parsons, Ph.D.

Reg. No. 44,282